IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 453 OF 1997

Vasantkumar Shankar Kulkarni ... Petitioner

Vs.

The Board of Trustees of
the Port of Bombay and anr. ... Respondents

Mr. M.S. Topkar with Mr. K.S. Bapat for Petitioner.

Mr. S. Ramaswamy i/by Mulla & Mulla & C.B. & Craige for Respondents.

CORAM: F.I. REBELLO &
ANOOP V. MOHTA,JJ.
DATED: OCTOBER 18, 2006

P.C.:

. It is the case of the Petitioners that pursuant to the judgment of Madras High Court dated 27.8.1996 in Writ Petition No. 1452 of 1991, in the case of All India Federation of Port and Dock Pensioners Association Versus The Government of India, Ministry of Surface Transport and Labour Division, New Delhi directed tht interim relief granted had to be considered for all purposes as was given to Class I and II employees as held by the learned Division Bench of the Madras High Court.

. We may point out that by notification dated 9.10.1987 ad hoc relief was granted to Class I and II employees. Ad hoc relief was to be counted for the purpose as set out in Para 2 Clause 3 which

reads as under :

> "(iii) The Ad hoc Relief would count for purpose of payment of House Rent Allowance and City Compensatory Allowance (subject to existing ceilings), for recovery of House Rent, for employee's/employer's contribution to Contributory Provident Fund, Pension, Gratuity (including DCRG), Ex-gratia and leave encashment. The Ad hoc Relief would also be taken into account for calculating the amount of Non-practising allowance admissible to Medical Officers, but the existing ceiling of Rs.650 p.m. on NPA will continue."

. The Petitioners were Class III and IV employees. Interim relief granted to them was not considered for the purposes of same or similar benefits as was given to Class I and II employees. The stand of the respondent as now reflected in the affidavit filed before this court was that pay revision for Class III and IV employees was for the subsequent period and in these circumstances, there was no question of giving them benefit for the period when there was wage settlement. We really need not to go into that controversy considering the judgment of the learned Judge of the Madras High Court. The learned Judge

of the Madras High Court was pleased to observe as under :

> "..... I am of the opinion that the members of the petitioner-Association, who are paid interim relief for the actual period of work during the period between 1-1-1986 and 31.12.1987 are entitled to claim inclusion of the interim relief as pay for all purposes including pensionary benefits..."

. This order of the Madras High Court was against the Government of India which had directed the grant of interim relief. Subsequent to the Judgment, an order came to be issued dated 16.11.1998 to the Chairman, All Major Port Trusts and Dock Labour Boards of the Central Government of India which reads as under :

> "It has now been decided that in respect of Class III and Class IV employees of Port Trusts and Dock Labour Boards, to allow the Interim Relief given to them between the period 1.1.1986 to 31.12.1987 as pay for all purposes including calculation of pension and other benefits."

. This was reiterated by communication of 15.1.1999. In other words, therefore, it is clear that all Class III and IV employees are entitled to the interim relief to be granted for all purposes as set out by us in the earlier part of our order in terms of the judgment of the Madras High Court.

. The Petitioners have principally contended that though the benefits have been given, it is not in terms of the judgment of the Madras High Court and the directions by the Government of India. It is pointed out that the interim relief has not been considered for the purpose of calculating increased Dearness Allowance, L.T. allowance, H.R.A. allowance and other allowances. This contention of the Petitioner has merit. Considering the judgement of the Madras High Court and the orders of the Government of India, the Petitioners as also the similarly situated would be entitled to count interim relief for all purposes as set out by the Madras High Court. This exercise has to be completed and the benefits to be paid at any rate not latter than sixteen weeks from today.

(2) The next contention as urged is to count the pension for the purpose of computation by including the component of interim relief. This has also merit. Considering what we have set out earlier,

the respondents are directed to count the pension for the purposes of computation by including the component of interim relief. This exercise to be completed within the period of sixteen weeks from today and the difference be paid accordingly.

(3) The last contention which was urged was in the matter of personal pension. The main grievance of the Petitioner is that their pension based on CPI 250 which was done being drawn by them has to be protected even after revision against CPI 568. In so far as respondents are concerned, their learned counsel points out that is not disputed and our attention is invited to the pension being paid to the three Petitioners in Writ Petition No. 453 of 1997. In all the cases, we find that either the pension has been drawn on CPI 250 as directed or the pensioners are getting more than the pension fixed at CPI 250.

. The learned counsel for the Petitioner, however, submits considering the notice of motion which was taken out by them that the respondents have made deductions while paying the arrears. According to learned counsel for the Respondents , these are merely book entries and in fact no deductions have been made. The fact however, remains that before affecting the book entries, the Petitioners were not

heard in the matter. In these cases, considering the grievances of the petitioners that there has been deduction, we think ends of justice will be met if on behalf of Petitioners, Mr. V.G. Kulkarni, Estate Department to sit with the officers of the Respondent Port Trust. The consensus to be implemented by the parties. Rule made absolute accordingly. No order as to costs.

(ANOOP V. MOHTA,J.) **(F.I.REBELLO, J.)**